



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,711	10/18/2005	Noel O'Neill	9052-218	8453
20792	7590	07/18/2008		
MYERS BIGEL SIBLEY & SAJOVEC				
PO BOX 37428				
RALEIGH, NC 27627				
EXAMINER				
RALJS, STEPHEN J				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
07/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,711

Applicant(s)

O'NEILL, NOEL

Examiner

Stephen J. Ralis

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10 and 12-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2-10 and 12-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 18 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Applicant is respectfully requested to provide a location within the disclosure to support any further amendments to the claims due to when filing an amendment an applicant should show support in the original disclosure for new or amended claims. See MPEP § 714.02 and § 2163.06 ("Applicant should specifically point out the support for any amendments made to the disclosure.").

Response to Amendment/Arguments

3. With respect to applicant's argument with respect to the Drawings, applicant stated that formal drawings were being submitted identify the baffle, "16A", however, there is no submission on the record addressing the objection. Therefore, the objection is still outstanding.
4. The examiner respectfully asserts for the record that claims 2-10 and 12-20 are pending in the instant application.
5. Applicant's arguments with respect to claims 2-10 and 12-20 have been considered but are moot in view of the new ground(s) of rejection as set forth below:

Drawings

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because drawings are hand drawn. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and

Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "baffle 16a" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The drawings are objected to because the examiner cannot discern the location of the rear reflecting means (20) with respect to the location of the additional reflector means (21) due to Figure 2 having the rear reflecting means (20) being designated as a space as oppose to an element. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3742

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 2-8 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Hess (U.S. Patent No. 6,564,485), as evidenced by O'Neill (United Kingdom Publication No. 2372807A) and Fukue (Japanese Patent No. JP 06290762).

O'Neill'073 discloses a flame effect electric fire comprising: a housing (outer casing 1) adapted to be mounted on a substantially plane wall; heating means disposed in the housing operative to draw air into the housing, heat the air and expel the heated air (fan heater 2); and a flame simulating assembly mounted in the housing (simulated fuel 3); and comprising: a light source (light source 7); a viewing screen capable of diffusing and transmitting light (screen 4; page, 7 lines 18-35); a rear reflecting means disposed behind the viewing screen (reflecting panel 6; page 9, line 33 – page 10, line 19); and means for producing moving beams of light (rotor 8 which is mounted foil strips 9; page 7, lines 10-16; page 8, lines 18-25; page 10, lines 21-32), the light source being disposed below the reflecting means and behind the viewing screen (see Figure 3), the

means for producing moving beams of light (indirectly –see Figure 3) is disposed in front of the light source and below the screen and light from the light source is reflected by the means for producing moving beams of light onto the reflecting means and is reflected by the reflecting means onto the screen to produce a perceptible image viewable on the screen (see Figure 3), and wherein the heating means expels air in a generally vertically downwardly direction through an air expulsion aperture in an underside panel of the housing (see Figure 3).

O'Neill'073 further discloses the light from the light source being prevented from falling directly onto the viewing screen by means of a baffle (shield 10) mounted above the light source (page 9, lines 17-22; see Figure 3); the rear reflecting means comprising a sheet of material having reflecting regions and non-reflecting regions, the regions being generally flame shaped and the rear reflecting means having a concave reflecting surface (page 10, lines 14-19); the simulated fuel bed being disposed directly in front of the diffusing and transmitting screen (see Figure 3); and the screen comprising a reflective front surface configured such that a reflection of the fuel bed can be seen in the screen (page 7, lines 18-22).

With respect to the limitation of “adapted to be mounted on a substantially plane wall”, the proposition of “adapted to” is being deemed functional language and if a reference has the structure and the controllability to perform the operation, the reference is complete as detail, please refer to MPEP §2111.04, (“Claim scope is not limited by claim language that does not limit a claim to a particular structure”; i.e. usage of “adapted to”; “configured to” being an equivalent is definition). Therefore, it is deemed

that the structure of O'Neill'073 (outer casing 1 and all of its structure) has the structure and controllability to perform the operation of being mounted on a substantially plane wall.

O'Neill'073 discloses all of the limitations of the claimed invention, as previously set forth, except for the heating means expelling air in a generally vertically downwardly direction through an air expulsion aperture in an underside panel of the housing wherein the underside panel is an opposing bottom underside external panel to a top external panel; the light source comprising at least one halogen bulb or tungsten filament bulb having a maximum external dimension of not more than about 40mm; and the light source having a width of not more than 35mm and 15mm.

However, a heating means expelling air in a generally vertically downwardly direction through an air expulsion aperture in an opposing bottom underside external panel to a top external panel is known in the art. Hess, for example, teaches a heating means (stove heater unit 40) having an air expulsion aperture in an opposing bottom underside external panel to a top external panel (column 4, line 67 – column 4, line 3; see Figure 4). Hess provides vents at the bottom rather than at the front of the device as an alternative location taught in the art (see Figure 1 below). Moreover, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the venting at the bottom, as opposed to the front, to present a more aesthetic exterior as indicated in Figures 1-4).

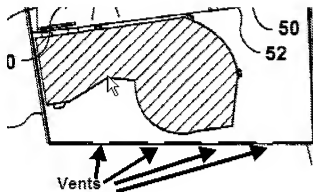


Figure 1

Hess further teaches the light source (48) preferably being a quartz halogen light. In addition, O'Neill'807 teaches a simulating flame assembly comprising a halogen lamp(14) to provide a low voltage light source (5 watts; page 2, lines 24-26), allowing the flame simulating device to operate at relatively low voltages (page 2, lines 6-8), thereby providing a more electrically safe flame simulating device (page 1, lines 27).

Therefore, in view of Hess, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a halogen light, since as evidenced by O'Neill'807, using a halogen lamp provides a low voltage light source, allowing the flame simulating device to operate at relatively low thereby providing a more electrically safe flame simulating device.

In addition, Halogen bulbs having a maximum external dimension of not more than 40mm and having a width of not more than 15mm and 35 mm, as described by Fukue, is well known in the art. Fukue teaches a halogen bulb having a maximum external dimension of not more than 40mm (maximum dimension is the diameter being

in the range of 12mm to 18mm and the width being 6mm to 10mm; English Constitution translation) to provide an effective region of an infrared reflecting while still satisfying the operational requirements, thereby providing a more desired halogen light source. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the halogen light source of O'Neill'073-Hess-O'Neill'807 combination with the dimension limitations of Fukue to provide an effective region of an infrared reflecting while still satisfying the operational requirements, thereby providing a more desired halogen light source.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Hess (U.S. Patent No. 6,564,485) as applied to claims 2-8 and 12-16 above, and further in view of McDonald et al. (United Kingdom Publication No2276444A).

O'Neill'073 discloses an additional reflector being disposed behind the light source to reflect light beams at a different angle (auxiliary reflector 13; page 9, lines 8-12; see Figure 3), however, O'Neill'073 in view of Hess discloses all of the claimed limitations, as previously set forth, except for the light source being between the additional reflector and the rear reflecting means.

However, a light source being between the additional reflector and the rear reflecting means is known in the art. McDonald et al., for example, teach a illumination light source (7) being disposed in-between a rear reflector (shaped second reflector 3; page 4, lines 11-23; see Figure 1) and an additional reflector (primary source reflector 6;

page 6, lines 15-23; see Figure 1) to provide an insulative or cooling effect for various components and to further provide light paths of a specific directionality, thereby improving the safety and visual effect of the flame simulating apparatus. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the additional reflector means of O'Niell'073 in view of Hess with the light source in-between the rear reflector and additional reflector configuration of McDonald et al. in order to provide an insulative or cooling effect for various components and to further provide light paths of a specific directionality, thereby improving the safety and visual effect of the flame simulating apparatus.

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Hess (U.S. Patent No. 6,564,485) as applied to claims 2-8 and 12-16 above, and further in view of Cornell (U.S. Patent No. 2,984,032) and MacPherson et al. (U.S. Patent No. 6,269,567).

O'Neill'073 in view of Hess discloses all of the claimed limitations, as previously set forth, except for the shaft being driveably connected at a first end thereof to a drive means for rotation of the shaft and being retained at a second end thereof in a supporting bracket, *the supporting bracket having a slot therein adjacent the second end of the shaft, the first end of the shaft being configured to be retained by the flexible bushing when the second end is released from the supporting bracket via the slot in the supporting bracket*, and the shaft being displaceable from an operative position thereby to permit access to the light source; and the shaft being connected to the drive means

via a flexible bushing and the second end of the shaft is releasably mounted in the bracket, the shaft being displaceable when desired by flexure of the flexible bushing.

However, a simulated flame apparatus having a motor connected to a shaft via a flexible bushing on one end and having the shaft releasably connected to a support bracket on the other end, as described by Cornell, is well known in the art. Cornell teaches an artificial fireplace apparatus comprising a drive means comprising a motor (34) mounted to a drive shaft (38), which extends inwardly through support leg (28). In addition, Cornell teaches a main shaft (32) being coupled to the drive shaft (38) on a first end via a resilient sleeve (40) made of rubber or the like with the shaft (32) extending through the apparatus to a second end in a support bracket being held by a suitable bearing (36). Cornell further teaches that such a configuration provides a simple assembly, making it possible to make any necessary repairs or replacements (column 2, lines 33-43), thereby allowing the shaft to be disconnected without the use of any tools and easing maintenance thereof.

Similarly, a supporting bracket having a slot therein adjacent the second end of a shaft is known in the art. MacPherson et al., for example, teach a rod (81) being supported at one end in corresponding recesses (84) defined in a vertical support arm (86) (column 4, lines 38-42; see Figure 3). It is known in the art that such recesses are provided to easily remove the rod when necessary.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the motor/shaft coupling of the O'Neill'073 in view of Hess apparatus with the flexible coupling mechanism of Cornell to provide a simple

assembly, making it possible to make any necessary repairs or replacements, thereby allowing the shaft to be disconnected without the use of any tools and easing maintenance thereof. It would have further been obvious to one of ordinary skill in the art at the time of the invention was made to modify O'Neill'073 in view of Hess with recesses provided in the supporting shaft of MacPherson in order to provide a means to easily remove the rod when necessary as is known in the art.

14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Hess (U.S. Patent No. 6,564,485) as applied to claims 2-8 and 12-16 above, and further in view of Conroy et al. (U.S. Patent No. 3,742,189).

O'Neill'073 in view of Hess discloses all of the claimed limitations, as previously set forth, except for a mounting means for mounting the flame effect fire on a wall.

However, simulated heated fireplace assembly comprising mounting means for mounting simulated heated fireplace assembly on a wall is known in the art. Conroy et al., for example, teach an electric heated simulated fireplace assembly (12) that may be adapted for mounting within a larger receptacle which in turn is then mounted to the wall of a room; the corner thereof (column 4, lines 52-62) to provide a simulated fireplace assembly that may be used in many different rooms in a residence as well as in commercial establishments, thereby providing a more versatile apparatus to enhance and give pleasant atmosphere to the surroundings (column 1, lines 9-27). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to

modify the structure of O'Neill'073 in view of Hess with a wall mounting receptacle, as taught by Conroy et al., in order to provide a simulated fireplace assembly that may be used in many different rooms in a residence as well as in commercial establishments, thereby providing a more versatile apparatus to enhance and give pleasant atmosphere to the surroundings.

15. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Hess (U.S. Patent No. 6,564,485) as applied to claims 2-8 and 12-16 above, and further in view of Cornell (U.S. Patent No. 2,984,032) and MacPherson et al. (U.S. Patent No. 6,269,567).

O'Neill'073 in view of Hess discloses all of the claimed limitations, as previously set forth, except for an air intake aperture in the underside external panel of the housing and the heating means being configured to draw air into the housing through the air intake aperture in the underside external panel of the housing.

However, an air intake in the underside of a housing and the heating means being configured to draw air into the housing via the air intake is known in the art. Edwards et al., for example, teach an electrical heating element arrangement for an air flow heater (Title) comprising a housing including a fan (11) mounted for rotation about an axle (12) so that air is drawn from the underside of the fan and expelled radially outwardly into the housing (column 3, lines 20-27). Edwards et al. further teach that such a configuration provides a means for the air from the fan to pass over the heating elements of the heating assembly before exiting from the housing through nozzle (13)

(column 3, lines 31-34), thereby improving the overall operational efficiency of the heater assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the fan heater assembly of O'Neill'073 in view of Hess with the air intake on the underside of the housing/assembly in order to provide a means for the air from the fan to pass over the heating elements of the heating assembly before exiting from the housing through nozzle (13) (column 3, lines 31-34), thereby improving the overall operational efficiency of the heater assembly.

With respect to the limitation of an air intake aperture in the underside external panel of the housing and the heating means being configured to draw air into the housing through the air intake aperture in the underside external panel of the housing, O'Neill'073 explicitly discloses a fan heater (2) mounted and functioning in the underside portion/panel of the main simulating flame apparatus with the air expulsion aperture (grille 18) expelling air generally vertically downwardly direction through the air expulsion aperture (grille 18) of the underside portion/panel of the main simulating flame apparatus of the housing (1). Edwards et al. explicitly teach the necessity and requirement for a fan heater apparatus to have air being drawn from the underside of the fan (11). Clearly with the requirement for air to be drawn from the underside of the fan (11) of Edwards et al. and with the existing structure of O'Neill'073, the combination structure would require an air take aperture in the underside portion/panel of the main simulating flame apparatus of O'Neill'073 to accommodate the air being drawn for the underside of the fan (11) of the fan heater or the fan heater apparatus would not function properly. Therefore since O'Neill'073 discloses a fan heater (2) mounted and

functioning in the underside portion/panel of the main simulating flame apparatus with the air expulsion aperture (grille 18) expelling air generally vertically downwardly direction through the air expulsion aperture (grille 18) of the underside portion/panel of the main simulating flame apparatus of the housing (1) and Edwards teaches the necessity for air to be drawn from the underside of such heater which would require an air intake aperture in the structure, O'Neill in view of Edwards et al. fully meets "an air intake aperture in the underside external panel of the housing, wherein the heating means is configured to draw air into the housing through the air intake aperture in the underside external panel of the housing" given its broadest reasonable interpretation.

16. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Cornell (U.S. Patent No. 2,984,032).

O'Neill'073 discloses a flame effect electric fire having a flame simulating assembly mounted in the housing (simulated fuel 3) and comprising: a light source (light source 7); a viewing screen capable of diffusing and transmitting light (screen 4; page, 7 lines 18-35); a rear reflecting means disposed behind the viewing screen (reflecting panel 6; page 9, line 33 – page 10, line 19); and means for producing moving beams of light (rotor 8 which is mounted foil strips 9; page 7, lines 10-16; page 8, lines 18-25; page 10, lines 21-32), the light source being disposed below the reflecting means and behind the viewing screen (see Figure 3), the means for producing moving beams of light (indirectly –see Figure 3) is disposed in front of the light source and below the

screen and light from the light source is reflected by the means for producing moving beams of light onto the reflecting means and is reflected by the reflecting means onto the screen to produce a perceptible image viewable on the screen (see Figure 3).

O'Neill'073 discloses all of the limitations of the claimed invention, as previously set forth, except for the shaft being driveably connected at a first end thereof to a drive means for rotation of the shaft and being retained at a second end thereof in a supporting bracket, *the first end of the shaft being configured to be retained by the flexible bushing when the second end is released from the supporting bracket*, and the shaft being displaceable from an operative position thereby to permit access to the light source; and the shaft being connected to the drive means via a flexible bushing and the second end of the shaft is releasably mounted in the bracket, the shaft being displaceable when desired by flexure of the flexible bushing.

However, a simulated flame apparatus having a motor connected to a shaft via a flexible bushing on one end and having the shaft releasably connected to a support bracket on the other end, as described by Cornell, is well known in the art. Cornell teaches an artificial fireplace apparatus comprising a drive means comprising a motor (34) mounted to a drive shaft (38), which extends inwardly through support leg (28). In addition, Cornell teaches a main shaft (32) being coupled to the drive shaft (38) on a first end via a resilient sleeve (40) made of rubber or the like with the shaft (32) extending through the apparatus to a second end in a support bracket being held by a suitable bearing (36). Cornell further Teaches that such a configuration provides a simple assembly, making it possible to make any necessary repairs or replacements

(column 2, lines 33-43), thereby allowing the shaft to be disconnected without the use of any tools and easing maintenance thereof. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the motor/shaft coupling of the O'Neill apparatus with the flexible coupling mechanism of Cornell to provide a simple assembly, making it possible to make any necessary repairs or replacements, thereby allowing the shaft to be disconnected without the use of any tools and easing maintenance thereof.

With respect to the limitation of the shaft being driveably connected at a first end thereof via a flexible bushing to a drive means operative to rotate the shaft and being releasably retained at a second end thereof in a supporting bracket, *the first end of the shaft being configured to be retained by the flexible bushing when the second end is released from the supporting bracket*, and the shaft being displaceable from its operative position on release of its second end by flexure of the flexible bushing, thereby to permit access to the light source, Cornell explicitly teaches frames legs (26, 28) providing support means for a horizontal shaft (32). In addition, Cornell teaches one end (second end) of the shaft (32) being journaled in a suitable bearing (36) in support leg (28) and the other end (first end) being coupled to a shaft (38) of motor (34) extending inwardly through support leg (28) towards support leg (26). Cornell further teach the motor shaft (38) being coupled to the driven shaft (32) by a resilient sleeve (40) of rubber or the like, making it an easy matter *to disconnect* the shaft when desired without the use of any tools. Clearly, Cornell teaches the removal of shaft (32) by *disconnecting* driven shaft (32) from the */flexible bushing/resilient member (40) to*

provide a means for removal of the driven shaft (32) from bearing (36) or one would not provide for simplicity of assembly or providing the ability of making repairs or replacements of parts below the driven shaft (32) of the apparatus (i.e. bulb 16).

Therefore, the O'Neill'073 in view of Cornell driven shaft with a resilient member on one end of the driven shaft structure fully meets "the shaft is driveably connected at a first end thereof via a flexible bushing to a drive means operative to rotate the shaft and is releasably retained at a second end thereof in a supporting bracket, *the first end of the shaft being configured to be retained by the flexible bushing when the second end is released from the supporting bracket*, and the shaft being displaceable from its operative position on release of its second end by flexure of the flexible bushing, thereby to permit access to the light source" given it broadest reasonable interpretation.

17. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Cornell (U.S. Patent No. 2,984,032) as applied to claim 10 above, and further in view of Conroy et al. (U.S. Patent No. 3,742,189).

The O'Neill'073-Cornell flame effect electric fire combination discloses all of the limitations, as previously set forth, except for a mounting means for mounting the flame effect fire on a wall.

However, simulated heated fireplace assembly comprising mounting means for mounting simulated heated fireplace assembly on a wall is known in the art. Conroy et

al. teach an electric heated simulated fireplace assembly (12) that may be adapted for mounting within a larger receptacle which in turn is then mounted to the wall of a room; the corner thereof (column 4, lines 52-62) to provide a simulated fireplace assembly that may be used in many different rooms in a residence as well as in commercial establishments, thereby providing a more versatile apparatus to enhance and give pleasant atmosphere to the surroundings (column 1, lines 9-27). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the structure of the O'Neill'073-Conroy flame effect electric fire combination with a wall mounting receptacle, as taught by Conroy et al., in order to provide a simulated fireplace assembly that may be used in many different rooms in a residence as well as in commercial establishments, thereby providing a more versatile apparatus to enhance and give pleasant atmosphere to the surroundings.

18. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill (United Kingdom Publication No. 2298073A) in view of Cornell (U.S. Patent No. 2,984,032) as applied to claim 10 above, and further in view of MacPherson et al. (U.S. Patent No. 6,269,567).

The O'Neill'073-Cornell flame effect electric fire combination discloses all of the limitations, as previously set forth, except for the supporting bracket has a slot therein adjacent the second end of the shaft and the second end of the shaft is released from the supporting bracket via the slot.

However, a supporting bracket having a slot therein adjacent the second end of a shaft is known in the art. MacPherson et al., for example, teach a rod (81) being supported at one end in corresponding recesses (84) defined in a vertical support arm (86) (column 4, lines 38-42; see Figure 3). It is known in the art that such recesses are provided to easily remove the rod when necessary. It would have further been obvious to one of ordinary skill in the art at the time of the invention was made to modify O'Neill'073 in view of Cornell with recesses provided in the supporting shaft of MacPherson in order to provide a means to easily remove the rod when necessary as is known in the art.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Ralis whose telephone number is 571-272-6227. The examiner can normally be reached on Monday - Friday, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J Ralis/
Examiner, Art Unit 3742

/TU B HOANG/
Supervisory Patent Examiner, Art Unit 3742

Stephen J Ralis
Examiner
Art Unit 3742

SJR
July 10, 2008